

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL,

Plaintiff,

-v-

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Defendant.

20 Civ. 900 (ALC) (RWL)

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS, on or about February 3, 2020, plaintiff Natural Resources Defense Council (“Plaintiff”) filed this suit pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), seeking the release of certain records by defendant United States Environmental Protection Agency (“Defendant” and together with Plaintiff, the “Parties”) in connection with a FOIA request submitted by Plaintiff on April 24, 2017 (the “FOIA Request”);

WHEREAS, after the inception of this litigation, Defendant conducted an additional search and made several rolling document productions to Plaintiff, consisting of documents being released in full, withheld in full, or released in part;

WHEREAS, in connection with Defendant’s review of the search results, on October 7, 2021, the parties agreed to narrow the scope of potentially responsive documents remaining for review, *see* ECF No. 32;

WHEREAS, on December 10, 2021, Defendant completed its review and production of responsive, non-exempt documents, or portions thereof, to Plaintiff;

WHEREAS, Defendant produced 1,670 pages in total of responsive records (the “Document Productions”); and

WHEREAS, on December 30, 2021, Defendant produced an index of information pertaining to any record, or portion thereof, that was withheld from the Document Productions as exempt.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, and ORDERED as follows:

1. The Document Productions made by Defendant in this action fully resolve any and all claims that Plaintiff now has or may hereinafter acquire against Defendant or the United States of America (the “United States”), or any department, agency, officer, or employee of Defendant and/or the United States, for the release of the records arising from Plaintiff’s FOIA Request at issue in this action.

2. After the Court has approved and docketed this Stipulation and Order, within a reasonable period of time, Defendant shall pay to Plaintiff via electronic funds transfer the sum of THIRTEEN THOUSAND DOLLARS AND ZERO CENTS (\$13,000.00) in attorneys’ fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiff agrees to accept in complete satisfaction of any and all claims by Plaintiff for attorneys’ fees, expenses, costs, interest, and any other sums related to this litigation. Counsel for Plaintiff will provide the necessary information for Defendant to effectuate the electronic funds transfer.

3. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order.

4. This Stipulation and Order shall not constitute an admission of liability or fault on the part of Defendant or the United States or their agents, servants, or employees, and is entered into by all parties for the sole purpose of compromising disputed claims and avoiding the

expenses and risks of further litigation.

5. The parties agree that this Stipulation and Order will not be used as evidence or otherwise in any pending or future civil or administrative action against Defendant, the United States, or any agency or instrumentality of the United States.

6. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

7. Any obligation of the Government to expend funds under this Stipulation is subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341. This Stipulation shall not be construed to require the Government to obligate or pay funds in contravention of the Anti-Deficiency Act.

8. Counsel for Defendant will be filing this Stipulation and Order via the ECF system on behalf of all parties. Pursuant to Rule 8.5(b) of the Electronic Case Filing Rules & Instructions of the U.S. District Court for the Southern District of New York, counsel for Plaintiff consents to the electronic filing of this Stipulation and Order by counsel for Defendant and such filing shall constitute a dismissal of this action with prejudice pursuant Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Dated: New York, NY
May 2, 2022

DAMIAN WILLIAMS
United States Attorney for the Southern
District of New York

/s/ Natasha W. Teleanu
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NATURAL RESOURCES DEFENSE COUNCIL

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Counsel for Plaintiff

SO ORDERED:

HONORABLE ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE